

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

BRANDY FISCHER,

Case No. 3:20-cv-206

Plaintiff,

vs.

District Judge Walter H. Rice
Magistrate Judge Michael J. Newman

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

**ORDER: (1) GRANTING THE COMMISSIONER'S THIRD MOTION FOR AN
EXTENSION OF TIME (TO NOVEMBER 2, 2020) IN WHICH TO FILE THE
ADMINISTRATIVE RECORD (DOC. 9); (2) DIRECTING THE COMMISSIONER TO
FILE THE ADMINISTRATIVE RECORD AS SOON AS PRACTICABLE; AND (3)
ASSUMING THE ADMINISTRATIVE RECORD CANNOT BE PROMPTLY FILED,
ORDERING THE COMMISSIONER TO FILE A STATUS REPORT REGARDING THIS
ISSUE ON OR BEFORE NOVEMBER 2, 2020 -- AND EVERY THIRTY (30) DAYS
THEREAFTER -- UNTIL THE RECORD IS FILED**

This Social Security disability case is before the Court on the Commissioner's third motion for an extension of time -- to November 2, 2020 -- in which to file the administrative record. Doc. 9. Plaintiff filed a memorandum in opposition, and the Commissioner has submitted a reply. Docs. 10, 11.

In support of the motion, the Commissioner references the affidavit of Jebby Rasputnis, Executive Director of the Social Security Administration's ("SSA") Office of Appellate Operations, who attests that while the SSA has steadily increased its capacity to produce administrative records electronically, the process is presently insufficient to meet the agency's workload. Doc. 9-1. Ms. Rasputnis further testifies that the SSA is working to increase its production of administrative records through procurement of additional resources to address staffing and process issues as a result of the COVID-19 global health pandemic. *Id.*

In response, Plaintiff asserts that due to the two prior extensions of time -- totaling 60 days -- and due to her lack of financial resources, the Commissioner should not be granted additional time to file the administrative record. Doc. 10. Instead, Plaintiff suggests that, if her counsel is provided with an audio recording of the administrative hearing, counsel can have an independent court reporter assemble an administrative record. Doc. 10 at PageID 36, n. 1.

While the Court is sensitive to the desire of Plaintiff's counsel to timely and efficiently hear this matter -- as is the Court -- the obligation and responsibility to prepare the administrative transcript lies solely, and exclusively, with the Commissioner. *See* 42 U.S.C. § 405(g) (directing the Commissioner to "file a certified copy of the transcript of the record including the evidence upon which the findings and decision complained of are based").

Accordingly, the Commissioner's third motion for an extension of time is **GRANTED** for good cause shown. The Commissioner shall file an administrative record as soon as practicable. Assuming the administrative record cannot be filed promptly, the Commissioner shall **FILE A STATUS REPORT** on or before November 2, 2020 -- and every thirty (30) days thereafter -- until the administrative record is filed in this case.

IT IS SO ORDERED.

Date: October 9, 2020

s/Michael J. Newman
Michael J. Newman
United States Magistrate Judge